



FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (“OMB”) for review, as required by the Paperwork Reduction Act (“PRA”). The FTC seeks public comments on a proposed amendment to its previously approved information requests sent pursuant to compulsory process to the largest domestic cigarette manufacturers. The additional information sought consists of the annual sales, give aways, and marketing expenditures for electronic devices used to heat non-combusted cigarette products. The current FTC clearance from OMB to collect information from cigarette manufacturers expires December 31, 2023.

DATES: Comments on the proposed information requests must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review - Open for Public Comments” or by using the search function. The reginfo.gov web link is a United States Government website produced by OMB and the General Services Administration (GSA). Under PRA requirements, OMB’s Office of Information and Regulatory Affairs (OIRA) reviews Federal information collections.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Mailstop CC-10507, Washington, DC 20580, (202) 326-2699.

SUPPLEMENTARY INFORMATION:

Title: FTC Cigarette and Smokeless Tobacco Data Collection.

OMB Control Number: 3084-0134.

Type of Review: Amendment of a currently approved collection.

On June 25, 2020, the FTC sought public comment on the information collection requirements associated with the Cigarette and Smokeless Tobacco Data Collection. 85 FR 38139. On October 23, 2020, the FTC provided a second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Cigarette and Smokeless Tobacco Data Collection. 85 FR 67541. On December 14, 2020, OMB approved the proposed information collection through December 31, 2023.

In response to the June 25, 2020 Notice, the Commission received a comment from Truth Initiative that among other things recommended that the Commission collect information regarding heated tobacco products with its cigarette Orders. In the October 23, 2020 Notice, the Commission agreed “that heated, non-combusted tobacco products [we]re an important emerging segment of the tobacco market” and stated that it would “monitor these products and ... consider whether and how best to collect information about these products when the market has further developed to make such information collection warranted.”

The Commission now believes that a narrow collection of information related to heated, non-combusted tobacco products is warranted. Heated, non-combusted cigarettes already fall within the definition of cigarettes, which are covered by the currently approved information collection. The electronic devices in which such cigarettes are heated do not fall within the definition of cigarettes, and thus are not covered by the approved information collection.

The Commission proposes asking each cigarette manufacturing recipient to state whether it sold heated, non-combusted, cigarettes during a calendar year, and if so to report for the calendar year, the net number of heating devices designed to be used with heated cigarettes that it sold in the United States, the net dollar value of such devices sold, the net number of such

devices it gave away in the United States, and the total amount it expended on the advertising, merchandising, or promotion in the United States of such devices. With its next annual information collection from cigarette manufacturing recipients in early 2022, the Commission proposes to collect this additional information for 2019, 2020, and 2021.

The FTC's understanding of the overall market for nicotine-based products is incomplete without more information regarding heated, non-combusted cigarettes and the corresponding devices. For example, the information could assist the Commission in conducting a study of the sales and marketing of these devices. Thus, the proposed addition will assist the Commission in closing this gap in our understanding.

Burden Statement:

Estimated Annual Burden: 106 hours

Estimated Number of Respondents: Ten 6(b) recipients (maximum)¹

These estimates include any time spent by separately incorporated subsidiaries and other entities affiliated with the ultimate parent companies that receive the information requests.

Estimated Average Burden Per Year Per Request: 11 hours

(a) Information requests to the four largest recipients of the Commission's information request, at a per request average each year of 25 hours = 100 hours, cumulatively, per year; and

(b) Information requests to six additional respondents, of smaller size, at a per request average each year of 1 hours = 6 hours, cumulatively, per year.

Estimated Annual Labor Cost: \$10,600

¹ Since three and possibly more of the cigarette manufacturing 6(b) recipients are parent companies that have separately incorporated subsidiaries or affiliates that the FTC anticipates or expects that the parent companies will transmit the collection instrument to and seek information from, the proposal to send up to ten 6(b) Orders could equate to 15 "persons" under the PRA. See 5 CFR 1320.3(c)(4) ("[ten or more persons]...refers to the persons to whom a collection of information is addressed by the agency within any 12-month period, and to any independent entities to which the initial addressee may reasonably be expected to transmit the collection of information during that period, including...separately incorporated subsidiaries or affiliates.").

It is not possible to calculate precisely the labor costs associated with this data production, as they entail varying compensation levels of management and/or support staff among companies of different sizes. The estimate assumes that personnel with technical training will handle most of the tasks involved in the data collection process, although legal personnel will likely be involved in preparing the actual submission to the Commission. Staff has applied an average hourly wage of \$100/hour for the combined labor classifications. Thus, estimated total labor costs for up to 10 information requests is \$10,600 per year (derived from \$100/hour x 106 annual hours).

Estimated Capital or Other Non-Labor Cost: de minimis

Request for Comment

Your comment—including your name and your state—will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Josephine Liu,
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